

MINUTES
Policemen's Pension and Trust Relief Fund
Thursday, August 13, 2009
9:00 a.m.

On Thursday, August 13, 2009 at 9:00 a.m., a meeting of the Board of Trustees of the Policemen's Pension and Relief Fund of the City of Little Rock, Arkansas was held in the Sister Cities Conference Room at City Hall.

PRESENT:	Bruce Moore	Chairman
	Farris Hensley	Secretary
	Sara Lenehan	Treasurer
	Mike Lowery	Member
	Lee Harrod	Member
	Brad Furlow	Member
	David Rowan	Member

ABSENT: None

Also present were Mr. Larry Middleton and Mr. Alex Jordan of Stephens Capital Management (Financial Consultants for the Fund), Mr. John Peace of the Dover Dixon Horne Law Firm (Legal Consultants for the Fund), Mr. Roger Smith, (Government Relation Lobbyists for the Fund), Ms. Sharon Phillips and Mrs. Kathy Lindsey (Pension Fund Administrative Staff).

Mr. Moore called the meeting to order at approximately 9:04 a.m., certifying that a quorum of the Board was present, and that the media had been properly notified in a letter dated July 26, 2009 to the Arkansas Democrat-Gazette.

Copies of the July minutes had previously been submitted to Board members, and following their review Mr. Harrod made a motion to approve them as submitted. Mr. Furlow seconded the motion and it passed unanimously.

Mr. Jordan and Mr. Middleton gave the July 2009 financial report and said that on July 31, 2009 the market value of the total Fund was \$47,647,205, of which \$24,661,172.78 was allocated to the DROP. This represents an increase in the account balance of \$1,849,931 since June 30, 2009. The component of this change was income of \$87,784. There were net contributions/withdrawals of (\$250,759). Additionally, \$569,410.00 was held in the Metropolitan Bank Checking Account. The Funds overall market rate of return for the month of July 2009 was 4.78% and 3.95% calendar year to date.

Mr. Middleton and Mr. Jordan reported that the second quarter had been the best in the past six years, and that the market is beginning to solidify. They said that deflation in the economy is currently continuing, but should wind down by year-end, and that they will soon began looking for anti-inflation hedges to include in the Funds portfolio. The Fund is currently experiencing good yields, defensive in

nature, and is somewhat benefiting from a commodity perspective. The housing industry and unemployment, however continues to remain an issue.

Mr. Smith reported that the Legislative Retirement Committee had not yet taken up the Interim Study of various issues that were referred to the Interim Study process during the past session. He also referenced a previous letter sent by Mr. Hensley, Chairman of the Arkansas Fire and Police Pension Review Board (PRB) to the Governor requesting representation on an upcoming committee that would potentially be dealing with the Arkansas Insurance Premium Tax Funding Pool. He (Mr. Smith) said that he would follow up with the Governor's Office because a reply to Mr. Hensley's letter had not been received.

In regard to a question asked by Mr. Harrod concerning the decline of annual future police supplement distributions, Mr. Smith explained that premium taxes are collected on the sale of all insurance policies, and because the future police supplement is based on future growth, the decline during the past two years is a direct result of the lack of growth in insurance sales. Additionally, he explained that the future police supplement portion of the overall police supplement-funding package should be considered a yearly supplement and not a guaranteed payment each year.

During discussion the Board agreed that it is necessary to remain active in the legislative process and do everything possible to preserve all current state revenue funding streams to Local Municipal Pension Funds.

Mr. Peace reported concerning the benefit increase lawsuit, and said that briefs are continuing to be submitted, and that it is approximately thirty (30) days from being presented to the Judge.

Mr. Peace requested that the matter regarding Age Seventy and One Half (70½) Internal Revenue Service (IRS) Rule governing the DROP be tabled until September to allow time for him to meet with Mr. Jody Carreiro, Actuary for the PRB. The matter was tabled.

Mr. Peace reported concerning civil liability indemnification for Board Members, and said that State Statute 21-9-301, amended in 1999, provides that Board Members are immune from liability for civil action unless a Board Member is covered by liability insurance. The City of Little Rock is not covered by insurance and relies on tort liability. Mr. Peace will provide Board Members with written documentation regarding the matter.

Mr. Moore distributed to the Board a document outlining boundaries of the Little Rock Port Tax Increment Funding (TIF) district.

When asked by Mr. Rowan to explain the issue regarding insurance tax funding to large cities, both Mr. Moore and Mrs. Lenehan explained that due to the insurance premium tax distribution formula, smaller cities often receive enough in premium tax distributions to cover their contributory liabilities, thus depleting available funding, leaving larger cities bearing much more of the *fiscal* impact.

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In response to a question previously asked by Mr. Hensley, Mr. Moore explained that administrative staff had researched city records in an effort to locate a city ordinance or other such authority that established or created the Little Rock Police Pension Fund. He said that although they were unable to locate any such authority, they did locate a reference made in 1923 pertaining to the first annual report filed by Mr. E.W. Crow, Secretary of the Fund.

Mrs. Lenehan submitted copies of the unaudited balance sheet report for the months of June 30, 2009 and July 31, 2009. Losses to the plan year-to-date through July 31, 2009 were (\$2,177,763). The report indicated that as of July 31, the total account fund balance was approximately \$48,198,380 including DROP. The net overall gain for the month of July was \$1,665,997.

Copies of the July 2009 expense and legal fee report were submitted. Total expenditures, excluding benefit related expenses, were \$3,172.38 for the month of July, and \$23,162.62 calendar year through July 31, 2009. Legal fees for the month of July were \$2,096.00, and totaled \$23,205.50 year to date through July 2009.

Following a review of the two (2) above referenced financial reports and July expense report, Mr. Hensley made a motion to approve them as submitted. Mr. Furlow seconded the motion and it passed unanimously.

Mrs. Lenehan reported concerning the matter of probation fee accounting for the years of 1995 through 2008. Detailed in a spreadsheet submitted to the Board were fines and probation fees dating from July 01, 1995 through August 10, 2005. She explained that until the year of 2000, the traffic court reported fines and probation fees separately; however, during the year of 2000 they discontinued reporting probation fees as a single line item. In an effort to understand what had happened in the accounting process, she (Mrs. Lenehan) said that she had contacted Judge Fleming, and learned that during the year of 2000 when line item reporting of probation fees were discontinued, traffic court personnel at that time began including the amount of probation fee collections in with the amount of fines that were collected, thus listing both as a single line item. She explained that to simplify accounting, the Court discontinued separating the two, and began recording both collections as fines. Therefore, specifically in regard to just the Traffic Court collections of ten percent (10%) probation fees, from the year of 2000 forward, the pension fund had received their appropriate ten percent (10%) portion, because both were classified as fines. The spreadsheet report concluded that ten percent (10%) of probation fees from the three (3) Little Rock District Courts that were collected during the previously referenced years, and should have statutorily been paid to the Little Rock Police Pension Fund totaled \$460,531.06.

During his comments to the Board, Mr. Hensley said that during the previously referenced ten (10) year period the City of Little Rock withheld contributions that they were legally and statutorily required to make to the Police Pension Fund in an amount of approximately one half million dollars. He explained that apparently during the entire recorded history of the Fund, the City of Little had not only ever contributed enough to fully fund its Police Pension Fund's liabilities, but on various past occasions had withheld legal statutorily required funding from it. He then asked Mr. Moore, as the

senior administrator of the City if he intended to repay the above referenced amount that had been illegally withheld.

Mr. Harrod inquired of Mr. Moore concerning the amount of money currently held in the City of Little Rock's emergency reserve fund, and said that he and other members would certainly consider this situation a definite emergency. He (Mr. Harrod) also referenced a previous vote made by Mr. Moore to repay not City money, but Pension Fund money to members of the Fund because City Employees had made errors that resulted in various members of the Fund being underpaid. He (Mr. Harrod) reminded (Mr. Moore) that it too was outside the legal statute of limitation period.

Both Mr. Rowan and Mr. Furlow asked questions, and commented regarding various sources of public funding allocated for Pension Fund purposes, and discussed with Mr. Moore the potential of a future sales tax increase or City Bond issue. Mr. Furlow also inquired concerning the feasibility of a possible future consolidation with the state retirement system, (LOPFI).

Mrs. Lenehan addressed the matter, and said that the City of Little Rock had already paid what they owed the Police Pension Fund, when paying an amount of \$63,066.00 in April 2009, which represented the past three year amount of the Fund's percentage of probation fees that were within the three (3) year statute of limitations. She also said that the City was unaware of the requirement to pay a percentage of probation fees until they reviewed the Arkansas Attorney General opinion, at which time upon advice from *the Pension Board's Legal Counsel with concurrence of the City of Little Rock Legal Counsel* paid the above referenced three year amount, that was within the statute of limitation period, and that the remaining previously referenced amount of \$460,531.06 has no bearing because it is outside the statute of limitations.

Mr. Moore told the Board that failure to contribute a portion of probation fees was unintentional, and once the City became aware of the requirement to pay the Pension Fund, they immediately began making required payments, and paid the above referenced three (3) year period. He said that if the City was in a much better financial situation from a local sales tax perspective, he believed that he would be very supportive of attempting to fully fund the Police Pension Fund, however he recently had to reduce the City's budget by approximately \$2,000,000.00, and said that the money "is not there" to pay the above referenced \$460,531.06. In response to the question regarding the City's emergency reserve fund, he said that approximately \$9,000,000.00 is currently held in the fund for events of a catastrophic nature, and that amount represents much less than should be held in such a fund by a city the size of Little Rock. He explained that the amount of money in question significantly exceeds his \$50,000.00 authorized limit as City Manager, therefore must be approved by the Little Rock City Board. He said that the Pension Board had been discussing a future presentation before the City Board in regard to the overall funding issue, and that he thought it would be appropriate to also address this particular matter. In regard to a previous question of possibly dedicating any portion of a future sales tax increase for Police Pension funding purposes, Mr. Moore said that he normally is not supportive of such dedications because it takes away from the overall revenue stream, although if a one half (1/2) cent sales tax increase were approved, he would be in favor of recommending that the Fund be made "whole" over a period of time.

The matter was then tabled until September.

Mr. Hensley made a motion to remove Ms. Amelia Wilhite who passed away on July 6, 2009 and Mr. James O'Kelley who passed away on July 18, 2009 from the pension roll. To approve the widow's pension for Ms. Betty O'Kelley in the monthly amount of \$1,243.04, the death benefit of \$6,500 on behalf of Mr. O'Kelley, and for the pension administrative staff to extend the Boards condolences to the families of Ms. Wilhite and Mr. O'Kelley. Mr. Furlow seconded the motion and it passed unanimously.

Mr. Harrod asked if the City would furnish Pension Board Members with current copies of the Legislative Handbook for Municipal Officers. Mr. Moore said that once they are available he would provide copies for each member.

At approximately 11:15 a.m., Mr. Moore and Mr. Lowery excused themselves from the meeting for previously scheduled engagements. Mr. Harrod then began to Chair the meeting.

The matter concerning updated procedures manuals for Board Members was tabled until September to allow adequate time for Mr. Peace to provide an electronic version of the manual to Pension Fund Staff personnel.

During discussion regarding a future presentation to the City Board of Directors, there was a consensus among Pension Board Members to possibly involve Mr. Jody Carreiro, actuary for the PRB, in the presentation, and to ask that he complete a cash flow analysis providing various standard assumptions relating to financial aspects of the Pension Fund. He would also be asked to include an analysis of the LOPFI consolidation study that was recently completed by actuaries from the LOPFI system. Mr. Hensley made a motion to approve up to \$3,000.00 for Mr. Carreiro to complete the previously referenced cash flow analysis. The motion received a seconded by Mr. Furlow and passed unanimously. Mr. Hensley was asked to contact Mr. Carreiro regarding the request. The matter was tabled until September.

During additional discussion concerning the previously referenced presentation, the Board agreed to establish a time of 10:00 a.m. at its September meeting for Mr. Carreiro to present his cash flow analysis. Mr. Harrod asked that Mrs. Lenehan invite Little Rock Mayor Mark Stodola to attend the presentation.

Matter concerning distribution of the annual police supplement, and scheduled review of legal and financial professional providers were tabled until September.

The Police Pension Board had previously requested that a consolidation study be completed by LOPFI Actuaries to determine the cost of consolidating the Fund with LOPFI. The study was to determine a cost to the City of Little Rock to merge the Fund without a compound cost of living adjustment (COLA), verses that of providing a three percent (3%) annual COLA. A report from LOPFI had previously been distributed to Board Members. The report provided revised employer contributions rates based on payroll reports provided to LOPFI earlier during the year. Mrs. Lenehan explained that the City of Little Rock LOPFI employer contributions would increase to \$7,910,158 annually, without a three percent (3%) COLA, and would increase to \$9,998,631 if a three percent (3%) COLA was provided. Because the City of Little Rock is currently contributing \$3,249,621 for

the members that are in LOPFI, they would therefore need to contribute an additional \$4,660,537. However, because of current revenue streams from Pulaski County Real Estate property taxes, and from State Insurance Premium Tax distributions that were collected during 2008, and both totaled \$3.6 million, the LOPFI employer annual contribution total would be lowered from the previously referenced amount to an increase of approximately \$1,000,000.00 annually, for fifteen a (15) year period if there were no COLA provided to Pension Members, but there would be an approximate \$3,100,000.00 increase if a three percent (3%) annual COLA were provided.

The matter was tabled until September.

Mr. Hensley informed the Board that a letter had been received from Mrs. Mary Politis, widow of Nick Politis thanking Board Members, Financial and Legal Consultants who made possible the Police Supplement pay to Pension Members.

Ms. Phillips asked the Board if there would be an interest for Police Pension Administrative Staff Personnel to conduct an informational question and answer session for active and retired members of the Fund. The session would consist of all matters relating to the administration of the Fund, as it relates to both active and retired members. Ms. Phillips asked Chief Rowan if the session could be held at the Police Training Facility. Chief Rowan asked Ms. Phillips to send him an email with tentative dates of the session. The matter was tabled until September.

Upon conclusion of Pension Board business, Mr. Furlow made a motion to adjourn the meeting. Mr. Rowan seconded the motion, and meeting adjourned at approximately 11:50 a.m.

Respectfully Submitted,

Farris Hensley
Board Secretary